

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMES DAVID OFELDT,

Petitioner,

vs.

DIRECTOR,
NEVADA DEP'T OF CORRECTIONS,

Respondent.

3:10-cv-00646-LRH-VPC

SCHEDULING ORDER

In this habeas corpus action, on January 3, 2011, counsel appeared on behalf of respondents (docket #8). Respondents have not been served with any documents in this action and the Clerk of Court shall be directed to serve this Order upon the office of the Nevada State Attorney General. Thereafter, counsel for respondents shall have twenty days to file a notice of appearance with service of same upon counsel for petitioner. Petitioner's counsel is Lori C. Teicher, Assistant Federal Public Defender, 411 E. Bonneville, Suite 250, Las Vegas, Nevada, 89101, 702-388-6577.

The Court will set a schedule for further proceedings in this action.

IT IS THEREFORE ORDERED that the Clerk shall **electronically serve** the original petition and this order upon respondents. Respondents shall file a notice of appearance in this action within twenty days of entry of this order.

IT IS FURTHER ORDERED that counsel for petitioner shall meet with petitioner as soon as reasonably possible, if counsel has not already done so, to: (a) review the procedures applicable in cases under 28 U.S.C. § 2254; (b) discuss and explore with petitioner, as fully as possible, the potential grounds for habeas corpus relief in petitioner's case; and (c) advise petitioner that all possible grounds

1 for habeas corpus relief must be raised at this time in this action and that the failure to do so will likely
2 result in any omitted grounds being barred from future review.

3 **IT IS FURTHER ORDERED** that petitioner shall have ninety (90) days, to file and serve an
4 amended petition for writ of habeas corpus, which shall include all known grounds for relief (both
5 exhausted and unexhausted).

6 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from service of
7 the amended petition within which to answer, or otherwise respond to, the petition. In their answer or
8 other response, respondents shall address any claims presented by petitioner in his petition as well as
9 any claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise all
10 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
11 procedural default. **Successive motions to dismiss will not be entertained.**

12 **IT IS FURTHER ORDERED** that if and when respondents file an answer, petitioner shall have
13 **thirty (30) days** after service of the answer to file and serve a reply.

14 **IT IS FURTHER ORDERED** that counsel for respondents shall make available to counsel for
15 petitioner (photocopying costs at the latter's expense), as soon as reasonably possible, copies of
16 whatever portions of the state court record they possess regarding the judgment petitioner is challenging
17 in this case.

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19 DATED this 15th day of January, 2011

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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